

## ARKANSAS COURT OF APPEALS

DIVISION I

No. CA09-1072

TREMAYNE SCOGGINS

APPELLANTS

V.

EVON M. MEDLOCK

APPELLEE

Opinion Delivered February 24, 2010

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
[NO. DR2009-1376]

HONORABLE MARY SPENCER  
McGOWAN, JUDGE

APPEAL DISMISSED

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**JOSEPHINE LINKER HART, Judge**

Tremayne Scoggins appeals from an order of the Pulaski County Circuit Court, Ninth Division, dismissing, pursuant to Rules 12(b)(6) and 12(b)(1) of the Arkansas Rules of Civil Procedure, Scoggins’s petition to be declared the father of a deceased child, Trayvon Scoggins. On appeal, he argues (1) that the trial court erred in dismissing his petition because he had standing to “conclusively establish paternity” by DNA testing where there still exists easily obtainable biological material from the deceased child and where appellee Evon M. Medlock had previously acknowledged that he was the father of the deceased child in court filings; and (2) that the trial court erred in finding that it did not have subject-matter jurisdiction to establish paternity. We dismiss this appeal as moot.

Trayvon A. Scoggins was tragically killed in an accident involving a taxicab on June

9, 2006. He was less than fifteen months old. On June 20, 2006, the child's mother, Evon Medlock, petitioned to be named special administratrix of the child's estate. In her petition, Medlock stated that "Tremayne Scoggins is the biological father of the child." On August 6, 2006, a wrongful death and survivor action was filed in Pulaski County Circuit Court. A settlement offer of \$362,500 was made. The circuit judge, sitting in the Twelfth Division of Pulaski County Circuit Court, determined that Scoggins should be represented by counsel. Over Medlock's objection, the trial court appointed counsel for Scoggins. Scoggins subsequently petitioned to establish paternity in the Ninth Division of Pulaski County Circuit Court.<sup>1</sup>

Scoggins's petition, styled "Petition for Paternity," was filed on March 12, 2009. In his petition, Scoggins stated that on March 26, 2005[sic], Evon Medlock delivered an out-of-wedlock child, Trayvon A. Scoggins, who was now deceased. He claimed that he had acknowledged paternity of the child. Further, he asserted that Medlock acknowledged under oath that he was the child's father. However, Medlock subsequently claimed that he was only the "putative" father. The petition further stated that the court should order DNA testing pursuant to Arkansas Code Annotated section 9-10-108 and following. In the prayer for

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<sup>1</sup> We note that the appeal sub judice is taken from an order out of the Ninth Division of the Pulaski County Circuit Court. For reasons that will become painfully obvious, it is apparent that matters taken up in the respective divisions of the same court directly affected this case, but were not considered by the other division. It appears that these proceedings violate the spirit, if not the letter of Amendment 80.

relief, Scoggins asked that he be declared the natural father of the deceased minor child. On July 2, 2009, Scoggins filed a motion asking for paternity testing pursuant to Arkansas Code Annotated section 9-10-108. In it, he asserted that the Arkansas Crime Laboratory had verified that a sample of the blood of the deceased child, Trayvon Scoggins, was available.

Meanwhile, in the Twelfth Division of Pulaski County Circuit Court, Medlock was replaced as the Special Administratrix of Trayvon Scoggins's estate. On April 21, 2009, the successor special administrator filed a document stipulating Scoggins's paternity of the deceased minor child. We hold that the filing of the stipulation had the conclusive legal effect of ending the necessity of Scoggins having to establish paternity.

The issue of mootness has not been raised by the parties; however, it is a jurisdictional issue that we raise on our own motion. *Gee v. Harris*, 94 Ark. App. 32, 223 S.W.3d 88 (2006). As a general rule, subject to a few exceptions that are not germane to this case, the appellate courts of this state will not review issues that are moot. *Davis v. Brushy Island Public Water Authority*, 375 Ark. 249, 290 S.W.3d 16 (2008). While the appellant presents an interesting question, for us to answer it would be to render advisory opinions, which this court will not do. *Id.* Generally a case becomes moot when any judgment rendered would have no practical legal effect upon a then-existing legal controversy. *Id.* The issue of the apportionment of the wrongful death/survivor action is under consideration in the Twelfth Division of the Pulaski County Circuit Court, where the special administrator has stipulated

to Scoggins's paternity. Further proceedings on this issue in the Ninth Division—and in the appeal—will have no practical legal effect on this case. Accordingly, we hold that this case is moot, and the appeal must be dismissed.

Appeal dismissed.

GLADWIN and BROWN, JJ., agree.